Message

From: Overstreet, Anne [overstreet.anne@epa.gov]
Sent: 2/27/2020 7:33:17 PM
To: McNally, Robert [Mcnally.Robert@epa.gov]; Kausch, Jeannine [Kausch.Jeannine@epa.gov]
Subject: RE: BPIA Biostimulant Update Panel

The main and most important message is highlighted below….

— Caps will win the Stanley Cup

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From: McNally, Robert <Mcnally.Robert@epa.gov>
Sent: Thursday, February 27, 2020 2:29 PM
To: Kausch, Jeannine <Kausch.Jeannine@epa.gov>
Cc: Overstreet, Anne <overstreet.anne@epa.gov>
Subject: Re: BPIA Biostimulant Update Panel

Your/our main messages are:
— we are reviewing and responding to comments
— we will repropose later this year
— we will work with USDA who has the lead on the Report to Congress.
— our draft guidance deals with our CURRENT FIFRA program and PGRs. We await further developments as Congress reviews the USDA report. They could change FIFRA.
— we will keep BPIA in the loop.
— Caps will win the Stanley Cup

People can ask all sorts of questions — internal deliberative, hypotheticals etc — we/ you do not want to get into that at all.

Ex. 5 Deliberative Process (DP)

How does that sound?
Bob

Sent from my iPhone

On Feb 27, 2020, at 1:01 PM, Kausch, Jeannine <Kausch.Jeannine@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

Jeannine

From: McNally, Robert <Mcnally.Robert@epa.gov>
Sent: Thursday, February 27, 2020 12:42 PM
To: Jones, Russell <Jones.Russell@epa.gov>
Cc: Kausch, Jeannine <Kausch.Jeannine@epa.gov>; Overstreet, Anne <overstreet.anne@epa.gov>
Subject: Re: BPIA Biostimulant Update Panel

Yep, you all have the answers to those types of questions. Good job.

Jeannine— any other questions u feel u are not equipped to answer?
Bob

Sent from my iPhone

On Feb 27, 2020, at 12:24 PM, Jones, Russell <Jones.Russell@epa.gov> wrote:

Bob:

If a product or ingredient has a plant regulator MOA AND a non-plant regulator MOA, there are 3 scenarios:

1. It is regulated under FIFRA (as a plant regulator, regardless of claims)
2. The other MOA is considered a "significant commercially valuable use." If no plant regulator claims for product, no FIFRA.
3. The other MOA is NOT considered a "significant commercially valuable use." Regardless of claims, it is subject to FIFRA.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Russ

From: McNally, Robert <Mcnally.Robert@epa.gov>
Sent: Thursday, February 27, 2020 11:38 AM
To: Jones, Russell <Jones.Russell@epa.gov>
Cc: Kausch, Jeannine <Kausch.Jeannine@epa.gov>; Overstreet, Anne <overstreet.anne@epa.gov>
Subject: Re: BPIA Biostimulant Update Panel

Russ,

Very Nice job on answers. We need to discuss for #1, how we determine what we do if there is a claim of another function. They are looking for a get out of jail card. How do we decide if they have a legit claim?

Sent from my iPhone

> On Feb 27, 2020, at 10:55 AM, Jones, Russell <Jones.Russell@epa.gov> wrote:
>
> **My responses in RED below (I really wish I could be at this one)**
>
> **--Russ**
>
> > On Feb 26, 2020, at 8:17 PM, Kausch, Jeannine <Kausch.Jeannine@epa.gov> wrote:
> >
> > The biostimulant panel questions just came in . . . There are some interesting/challenging ones. Let me know if you want to talk about these tomorrow.
> >
> > **From:** Keith Jones <jones@bpia.org>
> > **Sent:** Wednesday, February 26, 2020 8:00 PM
> > **To:** Stone, Terry <terry.stone@corteva.com>; Luca.bonini@italpollina.com; sfoss@agr.wa.gov; Rose Kachadoorian <rkachadoorian@oda.state.or.us>; Crook, Steven - APHIS <steve.crook@usda.gov>; Young, Nick@CDFA <nick.young@cdfa.ca.gov>; Kausch, Jeannine <Kausch.Jeannine@epa.gov>
> > **Subject:** BPIA Biostimulant Update Panel

Thank you again for agreeing to speak as part of our biostimulant update panel during the BPIA 2020 Annual Meeting on Wednesday, March 4th, at 4:00 pm in Portland, Oregon. Below are some questions that your panel moderator, Terry Stone, will ask the panel to get the discussion going. If there are any other specific questions you would like Terry to ask the panel, please let us know.

1. Do EPA and/or state regulators recognize that active ingredients and products can have multiple functions? Yes, this is conceivable.

   Yes. It is understood by the Agency products and ingredients may have both plant regulator and non-plant regulator modes of action.

2. What would be necessary for a multifunctioning substance to be accepted as a biostimulant? We need to discuss this today or Zfriday to try to nail down a bit more specificity but not too much.

   There is no Federal definition for a plant biostimulant in FIFRA or the Code of Federal Regulations.

   The Agency understands that some plant biostimulant (PBS) products have modes of action that make them plant regulators, whereas other PBS products do not have plant regulator modes of action.

The EPA provides FIFRA oversight only for plant regulator products and claims as defined in FIFRA Section 2(v).

3. Is EPA willing to modify its biostimulant guidance or perceptions to allow states to move forward with their own biostimulant programs? Avoid the hypothetical.....Bob does not know what this question means. Our guidance merely presents what we have done. we are looking at comments now.

   The Draft Guidance is intended to be guidance for plant regulators, not plant biostimulants.

   The Guidance is intended to clarify how EPA currently addresses plant regulator products and claims under FIFRA. We are now in the process of reviewing and responding to comments from stakeholders.

4. Can EBIC provide an update on creation of CEN standard and challenges if they are not developed to support the fertilizer regulation? Not us

   Agreed. Let EBIC representatives answer

5. Why do Federal Agencies and the States prefer option 3 in the USDA Report? Would it not be in the interest of the whole sector to have a Federal approach so that State to State uncertainty is removed? Let USDA lead on this answer.

Agreed. Let USDA answer. Option 3 focuses on USDA facilitation with the States w/o the need for Federal statutory or legislative changes

6. Will the States and EPA fully participate in the USDA process and implement the developed framework? Yes

   EPA will continue to collaborate with USDA and other stakeholders as mandated by the 2018 Farm Bill.

7. What is each of your organizations willing to do to bring forth a reasonable solution for biostimulants? weird question. Answer: EPA fully committed to assisting USDA

   EPA will continue to collaborate with USDA and will follow any recommendations made by Congress resulting from the 2019 USDA Report on Plant Biostimulants

8. If standards and criteria are established for biostimulants through the USDA process and companies are certain that they have met those standards for a product, will State regulators be able to make a determination that the product does not require FIFRA registration? not us.

   Agreed, not for EPA to respond.

   However, we note that FIFRA authorizes EPA (not the States) to

determine what products and claims require FIFRA registration.

9. Will states adopt a model bill that recognizes the term "biostimulant"? Not us

   Agreed. Response should come from AAPFCO, NASDA, and or the individual States

10. For state fertilizer reps: The term "biostimulant" is used in several countries. For companies with an international website, why is it unacceptable for them to use the term to describe their product in countries where it is registered as such? Not us

    See comment above

11. What is the role of biostimulants in the International Year of Plant Health? Not us

    Agreed, not for EPA to answer, but note below:

    The International Year of Plant Health (IYPH 2020) is a United Nations General Assembly initiative that is (from the website): https://www.agriculture.gov.ie/dontriskit/internationalyearofplanthealth2020iyph2020/

    ":.. a once in a lifetime opportunity to raise global awareness on how protecting plant health can help end hunger, reduce poverty, protect the environment, and boost economic development."

A review of the website indicates that it is focused upon plant protection and global trade, with no specific references to plant biostimulants

Thanks,
Keith

Keith Jones
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